

**REMARKS**

The claims in the pending application have been rejected under § 103 as being obvious over the primary reference Matyas in combination with Cadotte, and with respect to some of the dependent claims, in further combination with additional references. Applicant respectfully traverses these rejections, and requests reconsideration of the claims.

On page 2 of the Office Action, the Examiner asserts that Matyas teaches presenting a question to a customer at the point of transaction, and obtaining a response to the question from the customer at the point of transaction, citing column 2, lines 45-47. Applicant respectfully submits that the Examiner's interpretation of Matyas is incorrect. More particularly, the cited portions of Matyas state, "another object of the present invention is to provide an electronic payment system that allows buyers to take surveys for products they have purchased. Another object of the present invention is to provide a means within an electronic payment system to conveniently input survey results using a client browser." This quoted language is contained in the Summary of the Matyas invention.

The Matyas patent relates to "a method and apparatus for providing product survey information in an electronic payment system...so that buyers can receive product evaluation information prior to making purchases and so that buyers can participate in on-line surveys, in order that they may provide comments about purchased products." Column 2, line 63-column 3, line 2. Matyas further explains at column 3, lines 6-9, "An additional entity, an evaluator, collects product survey information from buyers that have previously purchased products from the seller and provides product survey information to perspective buyers upon request." (emphasis added). Matyas further explains at column 3, lines 29-30 that "the buyer later provides survey information to the evaluator." (emphasis added). At column 3, lines 50-51,

Matyas states that "survey responses come from buyers who actually purchased the products in question," thus inferring that the purchase was made in the past.

As described in the Matyas Field of Invention, Matyas generally relates to shopping and purchasing of goods and services over the internet. Electronic payment protocols are utilized for implementing credit card based transactions.

Thus, it is impossible for the purchaser to evaluate the product or services, until the product and services are received. Since this is an internet transaction, the product or service is not obtained at the time of the purchase, but necessarily comes after the point of sale when the product is shipped or the service is performed. The purchaser cannot complete a survey about the product or service at the time it is purchased, but can only complete the survey at a later time.

Matyas further explains at column 26, lines 1-33 that the survey evaluator must verify that the respondent did in fact purchase the product being evaluated. Such a need to verify purchase of the product arises because the survey cannot be completed at the time of the purchase, since the purchaser does not have the product in hand. Claim 1 of Matyas similarly requires a determination of whether the entity in fact purchased the product from the seller.

Accordingly, contrary to the Examiner's assertion, Matyas does not relate to a point of purchase survey.

The Examiner cites Cadotte as relating to complaints about employee knowledge and service, and concludes that it would be obvious to use the electronic payment device of Matyas to collect survey information about employees as well as products and services. However, since Matyas is an internet shopping tool, there is no employee to evaluate. Thus, there is no motivation for combining the teachings of Cadotte with Matyas, as required for an obviousness rejection under § 103.

Independent method claim 1 is directed towards an evaluation of customer service performance of a specific employee "at a point of transaction and at a time of transaction." The survey question is presented to the customer "at the point of transaction and the time of transaction," as required by claim 1. The response to the survey question is also obtained at the point of transaction, as provided by claim 1. Thus, the method of customer service performance evaluation according to claim 1 all takes place at the point and time of the transaction. This is not possible with Matyas.

Independent claim 23 is similar to claim 1, in being directed towards a method of evaluating customer service performance at a point of transaction and at a time of transaction, with the question being presented to the customer at the point and time of transaction, and the response being obtained at the point and time of transaction. Again, evaluation at the point and time of transaction is impossible with Matyas.

Accordingly, independent claims 1 and 23 distinguish over the cited references so as to be allowable. Claims 2-4 and 6-11 depend from claim 1 and should be allowable as depending from an allowable base claim. Claims 24-30 depend from claim 23 and should be allowable as depending from an allowable base claim.

Claim 2 requires that the question and response are linked with the employee who served the customer. Claim 27 provides that the customer and the employee are physically present at the store at the time of the transaction. Since Matyas relates to internet purchasing without the use of an employee, claims 2 and 27 further distinguish over the cited references so as to be allowable.

Independent claim 31 is directed towards a system of collecting customer feedback of an employee's performance at a point of transaction and at the time of transaction. The system of

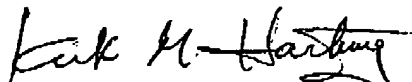
claim 31 requires that an electronic payment device which presents a question to the customer about the employee's performance and obtains a response to the question from the customer at the time and point of the transaction. As discussed above with respect to claims 1 and 23, Matyas does not involve an employee survey, and the survey is not completed at the time and point of the transaction. As further discussed above with respect to claims 1 and 23, there is no motivation to combine Cadotte with Matyas. Accordingly, claim 31 also distinguishes over the cited references so as to be in proper form for allowance.

For purposes of 37 CFR § 1.116, Applicant is submitting the present Amendment After the Final Office Action so as to clarify the teachings of Matyas. No changes have been made to the claims. Accordingly, Applicant respectfully requests that this amendment be entered and that Notice of Allowance be issued.

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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